Exhibit 6

SUPREME COURT OF THE STATE OF NEW YORK

COUNTY OF NEW YORK: TRIAL TERM PART 61

- X

In the Matter of the Application of the
PEOPLE OF THE STATE OF NEW YORK
by ERIC T. SCHNEIDERMAN,
Attorney General of the State of New York,

Petitioner,

For an order pursuant to CPLR Section 2308(b)
to compel compliance with a subpoena issued
by the Attorney General

- against -

PRICEWATERHOUSECOOPERS LLP and
EXXON MOBIL CORPORATION,

Respondents .

- X

Index No. 451962/2014

June 16, 2017
60 Centre Street
New York, New York 10007

B E F O R E: THE HONORABLE BARRY R. OSTRAGER, Justice.

A P P E A R A N C E S:

STATE OF NEW YORK OFFICE OF THE
ATTORNEY GENERAL ERIC T. SCHNEIDERMAN
120 Broadway
New York, New York 10271-0332
BY: JOHN OLESKE, ESQ.
MANISHA M. SHETH, ESQ.
MANDY DeROCHE, ESQ.

(Continued on next page for certification.)

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A P P E A R A N C E S (Continuing):

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Attorneys at Law
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New York, New York 10019-6064
BY: THEODORE V. WELLS, JR., ESQ.
DANIEL J. TOAL, ESQ.
JUSTIN ANDERSON, ESQ.

Terry-Ann Volberg, CSR, CRR
Official Court Reporter.

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THE COURT: Normally ExxonMobil is outnumbered in the courtroom, but not today.

I have orders to show cause which contain ExxonMobil's motion to quash, and for a protective order, and the Attorney General's motion to compel.

As has been the case with respect to all of our many prior proceedings, I have read all of the papers, and I have some historical experience with respect to these kinds of issues and disputes. So what I would like to do is take as the point of departure the orders that were issued in connection with the March 22nd transcript which I've reviewed in anticipation of this morning's proceedings, and passing the issue of what depositions and what interrogatories the Attorney General may seek, I want to start today's discussion about documents because it was my understanding that everybody agreed that after 16 months of document production, and after complete agreement on search terms and custodians and additional search terms and additional custodians, that there would be a certification within ten days after March 31st that ExxonMobil had fully complied with its obligations to produce documents, and that the Attorney General would have the opportunity to depose affiants who would attest to ExxonMobil's compliance with the

court orders of March 22nd, and with the agreements that were reached at the March 22nd hearing.

Now if the affidavits were insufficient or the depositions of the affiants were not satisfactory and additional deponents are required with respect to compliance with the orders issued on March 22nd and the agreements reached on March 22nd, that seems like a reasonable thing for the Attorney General to seek and request although I understand ExxonMobil has a different view. With respect to interrogatories, it seems to me that the Attorney General is entitled to ask non-burdensome, non-overbroad, non-abusive interrogatories.

Let's start with the issue of the Attorney General's request for additional documents and correspondence, the motion to quash that request.

So who wants to go first?

MR. WELLS: I will go first.

THE COURT: Mr. Wells has grabbed the floor.

MR. WELLS: Your Honor, I asked your staff if next time I can bring a computer and use a PowerPoint instead of these somewhat archaic boards.

THE COURT: We love the old-fashioned paper presentations.

MR. WELLS: For much of my life and yours

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this is how we used to do it, so I am comfortable doing it this way.

My first line is consistent with the comments by your Honor because I think we need to start with what happened on March 22nd.

I note, and we go back --

MR. OLESKE: We can't see.

THE COURT: The attorney cannot see your charts.

MR. WELLS: I can hand a copy of the slides to your Honor.

THE COURT: I am happy to take it.

(Handing.)

MR. WELLS: We will mark that as Exxon Exhibit Number One.

(Exxon Exhibit Number 1 marked in evidence.)

MR. WELLS: On November 21, 2016, the New York AG stated, "The production of documents from a company like Exxon has to have an end date. We have to have some expectation of the finality." Then on March 22nd the New York AG stated, "No one wants more than the Attorney General to complete the process of obtaining these documents and moving on to the next stage of the investigation."

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We understood the next stage of the investigation would be where they would begin taking substantive depositions of the witnesses who they had identified based on the production of almost three million pages of documents. We have no objection to them going to that next stage and taking those depositions. I want to be clear.

Now what happened after that -- also, what happened that day, again consistent with your Honor's comments, I stood up and I said, here's what I understand I am supposed to do. I am supposed to give certain documents to them by the 31st. I am supposed to get a certification by April the 10th.

We moved heaven and earth to finish the document production. We got them the certification on time as required, and they were even permitted, as indicated by the court, to depose my partner, Michele Hirshman, with respect to certification, but the whole purpose of the certification was that it was to certify that the process was over. Again, we did that.

I even talked about, I said, I will do that with this final certification which usually comes at the end of process. You tried to ask me to get it by March 31, you gave me ten extra days, but everyone was on the same page. We knew what we were talking about,

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we would end the document production and move to depositions.

Now what happened thereafter is that on May 8th we were served with a new subpoena requesting depositions and requesting documents. Now the depositions they requested, which we have no objection to involve depositions, that would be part of the next stage, the substantive witnesses. These witnesses are very important because they asked for five substantive witnesses. One we don't control, we can deal with that later, but the other four people who we agreed to immediately were Bill Colton, vice president of Corporate Strategic Planning. His deposition is scheduled for June 27. That's the date they asked for. We didn't negotiate with them about extending it. They asked for June 27. We said that he is happy to testify, we will produce him, and we plan to produce him on June 27. They asked for Robert Bailes, he is scheduled for July 19, Pete Trelenberg, he is scheduled for July 25, and Guy Powell, he is scheduled for July 28.

What is important about these four people is that all of them are involved in identifying what the proxy costs are, and how it's developed, and also how -- what GHG costs are, and how they are developed.

They are two very different concepts, but in their papers what they talk about is, they seem to say there's a difference between proxy costs and GHG costs, and they suggest someone -- we have two sets of books. The fact of the matter is, proxy cost is a different concept than GHG cost, and they are used for different purposes.

The important thing is that Mr. Colton is the author of the Energy Outlook, and he is also the head of corporate planning which deals with the budgeting part, and they asked for him first, and we told them that's the right person to talk to because he can explain all of the role of the proxy cost to you, he can explain how those costs are used with respect to budgeting, he can explain GHG, how all of this is done. They just waited to take the deposition of Mr. Colton because he really is the boss, so to speak, he is the author of the Energy Outlook, and because he heads the budgeting process on the corporate planning side, he brings the two things together.

So they waited to take this deposition. They wanted to see if it would be necessary. They asked for all these documents. It would be unnecessary to file these outrageous allegations about sham accounting, and double books, and two numbers. It was just wrong, what

they did.

I want to be clear: All of these people are scheduled to be deposed, and we didn't fight them. We said, happy to bring them in, and this is the first date they asked for, and he will be produced.

Now turning to what else they did do on the 8th, they served a subpoena which we contend is contrary to the agreements reached on March 22nd, is unnecessary, is overly burdensome, which is grounded in some notion of sham transactions that if they bothered to take the deps first, we wouldn't have to be here and spend all of this time on all of these papers. What they did, they asked for the deps which we agreed to, but yet they asked for us to put together 12 years of analysis involving every business decision in terms of oil and gas exploration that Exxon has made over 12 years. This is not pushing some button. There is no pushing a button. This would take a year, two years to do. It would take a long time. Nobody really knows. Nobody has ever engaged in that type of exercise.

THE COURT: Subject to what the Attorney General is going to say, that seems unreasonable on its face.

Now let me be clear: The four people who are being deposed, those were custodians from whom

documents were previously requested?

MR. WELLS: Yes, that's how they know their names, and they identified -- they have had hundreds of pages of documents on proxy costs and the Outlook, and based on their review of the documents they knew exactly who they asked for.

They set up Mr. Colton first. We agreed, he is the boss. He is the one that can tell you everything. He is the author of the Energy Outlook. He is --

THE COURT: Look, subject to what the Attorney General says, it seems to me that these deponents were previously identified as custodians, and you produced all the documents in their files that were called for by the search terms that were expanded at prior, at a prior hearing that we had, and that there shouldn't be any more documents produced because over 16 months the Attorney General has made multiple motions to compel, revised the number of custodians, revised the search terms, and they are going to get a lot more information from the depositions than they are going to get from these documents.

MR. WELLS: Yes, it's not like they would even have these documents by June 27 because this would take an enormous amount of manpower to even produce.

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It's not like we are taking a dep June 27, and we need this particular piece of paper next week. There is a complete disconnect, in fact.

THE COURT: Let me ask you this, Mr. Wells, because I know that you have a dozen more boards.

MR. WELLS: I wish it was only a dozen.

THE COURT: At the rate we are going, we will be here until 4:00 o'clock.

You would agree that the Attorney General can supplement its document requests with tailored interrogatories requesting responses to certain questions that arise from the content of the documents that you already produced?

MR. WELLS: I agree that they have the statutory power to pose interrogatories that are reasonable. I would argue if they are taking the deps of 14 people, that they will take the deps first before people start running around engaging in interrogatories, but the concept, I agree, that they have the statutory power to request an interrogatory. I agree that they have that power. Whether they -- whether it makes any sense given that they are producing witnesses is something, I guess, you have to see is it a targeted interrogatory or not. You would have to look at the interrogatory. But do they have

the power? I agree they have the power.

THE COURT: Okay, because I believe they have the power to propound interrogatories as long as the interrogatories are not excessively burdensome, unreasonable and abusive.

I'm sorry. I interrupted you.

MR. WELLS: I thought you were going to interrupt me in the way you wanted us to short circuit --

THE COURT: I am comfortable that you should be producing witnesses, responding to interrogatories, and not producing any more documents subject to what the AG says.

MR. WELLS: May I have one second, your Honor?

THE COURT: Yes.

(Discussion off the record.)

(The discussion off the record concluded and the following occurred in open court:)

MR. WELLS: I am going to try and cut some of this short.

What I want to do for the court's edification is state for the record that there's a difference between what we call proxy costs and GHG costs,

greenhouse gas costs.

THE COURT: I get it. I get it that if you know exactly how much it costs to take oil out of the ground in Alberta, you don't need to have a proxy cost.

MR. WELLS: That's what I want to clarify. We actually used both. There are two different concepts.

When the Energy Outlook talks about proxy costs, that is the cost of proxy that ExxonMobil uses for purposes of developing what it thinks the demand will be for energy, oil and gas over the years.

THE COURT: Understood, but you start with how much it costs to get it out of the ground, and then you figure out how much you can sell it for.

MR. WELLS: Yes. We actually start with what we think the demand will be before we get to cost. We do both, whether it's a chicken or an egg, but the proxy cost refers to the development of the demand curve.

When you take into consideration a proxy cost, what you are saying is that the actions of governments in the future may be such as to suppress the demand for oil and gas, move people to use other types of energy sources, and that's going to suppress the demand, and that affects our supply and demand

which ultimately affects the price.

THE COURT: I understand. We said the same thing differently.

MR. WELLS: The GHG, those are specific costs for specific projects, and they both come together, but the proxy costs are really baked in to our demand forecast. This is a document that we produced to the New York AG, and what this document in front of it is a GHG Stabilization Challenge and Carbon Asset. This shows that the Energy Outlook takes all sorts of things into consideration: macroeconomics, technology, climate policy, all to ultimately produce, again, a price curve, what's going to be the demand. Then we figure out what the prices are. So the Energy Outlook is one of the most important documents at Exxon, and it's used to analyze every project because that's where we end up getting our prices.

Now I want to show one document that they refer to in their brief, they did not supply it to the court or us, but it's a document from PricewaterhouseCoopers. It's a critical document, four pages. I won't go through all of it, but what this document shows is ExxonMobil having discussions with its accountants about both proxy costs and GHG costs, and how it goes about doing what it does in terms of

taking into consideration climate change issues.

All of this was discussed with our accountants, they know all of this, and how, with knowledge of this document, they can file papers where they wrongly state that we were involved in some kind of sham transaction or had two sets of books, it's just wrong what they did.

I would like to hand the court a copy. I will make this Exxon Exhibit 2.

(Exxon Exhibit Number 2 marked in evidence.)

MR. WELLS: Your Honor, do you have the document?

THE COURT: I do.

I am having a hard time understanding what the dispute is here.

MR. WELLS: They filed -- they filed a brief --

THE COURT: They filed a brief. They said you did terrible things. You're unhappy that they filed the brief that said you did terrible things. You did what you did. The documents that you produce say what they say. The witnesses that you are going to produce are going to testify to what they are going to testify to. The interrogatories that you are going to

answer are going to be admissible against you in any trial proceeding.

I'm having a hard time understanding how it is that the New York AG after receiving all of these millions of documents and deposing all of the witnesses that they have scheduled and are going to schedule in the future are going to be unable to satisfy themselves as to what the true state of facts is here.

MR. WELLS: Well, your Honor, we believe based on documents we have given them, and, for example, this document (indicating), that they should know that the true state of facts is that ExxonMobil has not done anything wrong.

THE COURT: Okay. They have one interpretation of the documents that you've produced. You have a different interpretation of the documents that you've produced. The two briefs that have been submitted here can't be reconciled, and I can't decide who's right and who's wrong on the papers. I suppose I could conduct a trial and hear the witnesses that the AG is going to depose, and review the documents in the context of the testimony and form some very accurate conclusions about whose version of the facts is correct, but we are not here for that. We are here to decide whether or not you have to produce any more

documents, whether or not you have to produce any more witnesses, and whether or not you have to answer any interrogatories, right?

MR. WELLS: That is correct, your Honor.

MR. OLESKE: I think I can help with these points specifically, if I may. I mean, I think I can cut to exactly --

THE COURT: I don't want to interrupt Mr. Wells, but if he does not object --

MR. OLESKE: I mean --

MR. WELLS: I do not object.

THE COURT: He dose not object.

MR. OLESKE: Thank you, your Honor.

I mean, I am prepared to speak to everything Mr. Wells raised, and, obviously, based on what the court said, the Attorney General has its work cut out to make sure it's clear to the court the stakes here, and what's at issue specifically in terms of the document requests that the court has focused on.

But just to come from where the court was just speaking, this is not a merits dispute. The posture we are in on subpoena compliance in a law enforcement investigation does not allow for the weighing of merits disputes.

THE COURT: I complete and totally agree.

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MR. OLESKE: And so based on the papers and the record that we have here, the Attorney General has the right to proceed with this investigation. I think your Honor has already pointed to the right to take interrogatories, the right to take witnesses. The key stumbling block it seems for the court is whether or not the Attorney General has the right to get these additional documents to support its investigation, and it appears that there is kind of a dangerous possibility of Exxon managing, through what we view as a contemptible history of compliance, of establishing some new now non-existent legal standard that if a company produces X million documents over X period of time, that's it, you are done.

Going to your Honor's initial point about the last time we were here for compliance and your Honor ordered what your Honor ordered with respect to compliance on the original subpoena, to your Honor's implicit question of time, we are deeply unsatisfied with the information that we got out of Exxon's compliance witness both in the affidavit and in the testimony. There's years worth of destroyed documents that the company still has not accounted for, and that's the four records witness subpoenas that we have issued that Exxon's also contesting and doesn't want to

submit to, to find out where these destroyed documents are and how that happened.

Putting that aside for a moment, it's really not about whether or not Exxon finished its compliance under the first subpoena, which we don't think they did. We have issues there. The real issue is based on what we have learned in fits and starts as Exxon has at every move grudgingly given us information over this extended period of time, lost and destroyed documents along the way, had to redo everything at the end, at the end of that we have. As your Honor suggested in our prior appearances, we focused our investigation on the specific allegations that the evidence Exxon has produced in that first round evidences, are contradictory to Exxon's representations.

I am not getting into everything that Mr. Wells said about what Exxon has disclosed which is unfortunately false. Exxon's disclosure is there was a product that was one price. It was used for both purposes. It's in the record. I will not argue it, but that's the merits question that we won't get to.

The question is, the Attorney General has formulated requests for documents based on the gaps, the missing information, what should be there that we are not getting even though we are using these search

terms, GHG and proxy costs, but all of this stuff that now for the first time in an attorney affirmation Exxon is explaining to us, because in an attorney's brief Exxon is explaining to us about the facts of how they do this. We don't have these documents. The search terms should have caught them, but we don't have these documents.

Exxon has continued to make these same representations after November of 2015 when we issued the subpoena. In fact, their CEO chairman made the most unqualified statements about this process at the annual shareholders meeting in 2016.

Our subpoena's instructions called for Exxon to produce documents up to the date of the production. They didn't finish their management documents until two or three months ago because they did it wrong the first time, they had to redo it, but they refused. They refused to ongoing -- supplement their production by giving us the documents from 2016. They refused to do that even though they are obviously relevant.

We asked for documents relating to Exxon's impairment and write-down of assets because we learned in the course of the investigation, your Honor instructed us to go to Exxon's accounts first to prosecute our subpoena there, get the documents from

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them, before asking, this was in an appearance last year, before asking Exxon in a subsequent subpoena for a broad range of counter-documents.

We listened to the court. We went through PricewaterhouseCoopers' documents. We learned that Exxon, contrary to its representations to the public, never applied the proxy costs when it came to this apparent analysis. We learned it through the PricewaterhouseCoopers documents, but we still don't have Exxon documents.

THE COURT: Look, you told me, Mr. Oleske, that we are not arguing merits here. We are just arguing compliance with discovery.

MR. OLESKE: Your Honor, it's not discovery, it's our investigative subpoenas, and our new investigative subpoenas are focused and have a factual connection, direct factual connection to the factual basis that we have established as the basis for our investigation, and so legally there is no basis to restrict the Attorney General from obtaining additional documents simply because the target argues that they complied in full with a first subpoena. Even if it's millions of pages, even if it takes a long time, the cases we cite in our brief are directly on point about companies exactly like Exxon that say the reason why we

need all of these documents, the reason why we need to look over Exxon's business it because it has a big complex business, and it chose to make the representations that it applies this process all across its business, across its many units for all of its decisions.

So there is no legal basis. It's just a question of whether or not Exxon can talk its way out of it by saying we produced X million documents so far, you should have gotten these documents in what you were looking for so far, but we haven't.

We have not seen -- this is the other thing -- Exxon -- Mr. Wells says they can't push a button to respond to this. In addition to the other ways in which Exxon's new assertions and attorney argument violate, contradict its representations to the public, Exxon has represented to the public that it has a comprehensive, uniform, rigorous system for keeping track of all of this, and now we are hearing Exxon cry that it cannot report to a government investigation, let alone for its own business purposes for shareholders, this very information that Exxon claims in its disclosure should be at its fingerprints about a process that it's applying all over the company in order to satisfy investors concerns about a specific

risk.

So the problem that we have is that we have demonstrated the factual basis. Exxon said X, they did Y, and in response they have come up with Z, attorney admissions of what they did and attorney rewritings of their disclosures. That's not a basis to resist the investigation. It's specifically on the document requests.

We have shown in our papers, I can walk through each one, how these are focused on obtaining additional information that is necessary to follow up on the first feed. That's within our office's power, and the scope or the duration of the prior production does not legally have an effect on that. As to our request for information --

THE COURT: I'm trying to make this simple.

When you were here on March 27 Mr. Toal stood up, and Mr. Toal said properly, it's our obligation as attorneys for ExxonMobil to make a continuing production of documents that come to our attention that are responsive to the requests that have been made that weren't produced, however it is that they come to learn about things. It's a big company, and they have certified that they've complied with the production of all responsive documents from all of the custodians

that you have asked them to produce documents from, using all of the search terms that you've agreed.

You are going to depose multiple witnesses, you are going to propound interrogatories, and it seems to me that during the course of the depositions that you are going to conduct including additional depositions to verify compliance, because I think you've made a showing that their two affiants who they have produced did not satisfy you that they have fully complied with what they undertook to do. So I'm not precluding you from taking further depositions with respect to their compliance.

So I am not precluding you from propounding reasonable interrogatories, I am not precluding you from taking depositions, and I am not precluding you from coming back here and explaining based on what the additional depositions about process by which documents were produced including why documents disappeared, and based on what the witnesses testified to in their depositions as fact witnesses, and what the interrogatories you propound reveal that you need more documents.

What I am saying is that when you have engaged in a 16 month process of requesting and receiving documents from Exxon's auditors, agreeing

with Exxon on custodians whose files you want searched, agreeing with Exxon on what the search terms are that are going to be used to produce documents from the custodians, you can't start round two of producing documents all over again.

MR. OLESKE: Your Honor, a couple of things. I need to discuss each of the items, your Honor. Okay.

We have been in this process for 16 months. Exxon has produced literally three million pages of documents. That process took that long, and we still are without the documents we need because of Exxon's choices. They created this system of dribbling out documents, fighting us at every turn.

We didn't choose the custodians. It's Exxon's job to know where the documents, the relevant documents are, who works with the right information. Based on what we have just heard this last week now there is a whole suite of relevant facts that Mr. Wells is averring to for the first time on Exxon's behalf ever. We have not seen any documents referring to what Mr. Wells has talked about.

But putting aside the compliance with the original subpoena and those issues that do need to be resolved, that is not what we are here about. The Attorney General does have the authority even if --

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THE COURT: I understand you have the authority to ask for additional documents. I get that. I get that.

MR. OLESKE: I will get to why --

THE COURT: You have the authority. You have to make a showing that by taking depositions, and propounding interrogatories, and taking testimony from the people who supervised the production of documents, that they have misled you, and have, you know, failed to be forthcoming.

MR. OLESKE: No, your Honor, I hear that this is the critical issue for your Honor.

There are two issues: There's a legal issue and a practical issues. The legal issue is, no, that is actually not the standard. We are not required to show, to sustain document requests that we are not going to get the information we need through alternative investigative techniques that we are also empowered to use.

On a practical level in this case, your Honor --

THE COURT: You have not shown me that you have not gotten the documents that you claim you need.

MR. OLESKE: We explained that in our papers --

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THE COURT: I read your papers. I read their papers.

MR. OLESKE: The simplest example of all of these, your Honor, is that we have Exxon in our subpoena making one, two, three, four, five, six, seven, eight, eight different public representations in a different language, in different places, and different formats to investors and the public about how they have done this. The witnesses that we are talking -- by the way, they have changed that over the last year.

THE COURT: That's your case on the merits.

MR. OLESKE: My point is, yes, that's what we are investigating. That's what we have a --

THE COURT: Excuse me. Can I ask you a question?

MR. OLESKE: Yes, your Honor. I'm sorry.

THE COURT: Were the words "proxy cost" not one of the search terms that was used in connection with the production of all of these documents?

MR. OLESKE: That proves two things, your Honor, two things. Yes, it and GHG both were search terms. First of all, they refused to search the last year and a half worth of documents for those terms. Second, yes, and it shows us why we need these

interrogatories and these document requests before we decide who else we need to depose, take testimony.

The reason why we need these documents now is because, yes, we did have GHG, and we did have proxy costs as search terms, and somehow the documents that show Exxon applying this in its rigorous way and in this new alternate world that Mr. Wells has described that's never been disclosed before, they have not produced those documents.

So the answer to that is either the documents don't exist, and we will find out when they respond we don't have these documents, or Exxon was responsible for interviewing and finding the right custodians which we know from the outcome of our testimony they did not do properly. They should know where the custodians are who have the documents that substantiate any of what Mr. Wells has said. We don't have that information.

So the point is, them arguing that they complied with the first subpoena, that they executed the search terms, that this is what we have got, that, as a matter of law, cannot preclude our office from following up with additional, more specific, more targeted requests for documents, and it is, in fact, inefficient, it interferes with our ability to progress our investigation, to wait to depose witnesses only to

ask them so what documents are there, and then asking let's just get the documents --

THE COURT: Can I just ask you a question?

Why didn't you ask Exxon 16 months ago or 12 months ago, please, identify individuals at ExxonMobil who have information or knowledge about the application of an implementation and disclosure of proxy costs and greenhouse gas costs?

MR. OLESKE: We did, your Honor. We asked them for that from the very beginning.

THE COURT: Did they respond to that?

MR. OLESKE: They identified some custodians although outside counsel had no part in identifying the outside custodians. ExxonMobil's legal department by itself unsupervised identified the custodians.

THE COURT: I am not precluding you from asking that question right now.

MR. OLESKE: The point is --

THE COURT: And then if it turns out there are people who should have been previously identified and haven't been identified, then they will have to produce the documents that those people have.

MR. OLESKE: I guess the point is, your Honor, that we think it's a waste of your time, the court's time, our time, Exxon's time, for us to be

trying to relitigate the custodian's or search terms under the first subpoena. We have issued these new subpoenas, we have narrowed requests for documents and for information to make sure that we are not wasting everybody's time.

THE COURT: I think you are wasting my time because Mr. Toal said he was going to produce any documents that come into his possession that are responsive to your first subpoena and that would include 2016 and 2017.

MR. OLESKE: They refused, your Honor.

THE COURT: Well, then I am ordering them to produce those documents.

MR. OLESKE: But the other documents we are asking for, your Honor --

THE COURT: So those documents will be produced because those are documents that they had a continuing obligation to produce.

MR. OLESKE: We agree. Your Honor, when we tried to meet and confer over this we pointed that out to them. They refused to meet and confer about any of these requests.

THE COURT: We have solved your problem with respect to those custodians. They are going to honor the undertaking they made in open court on March 22nd.

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MR. OLESKE: I appreciate that. We solved that for one problem, for one of our document requests, document question number two. We appreciate, yes, they had that obligation all along and refused it. That's why we issued this targeted subpoena for that.

THE COURT: They also have an obligation to produce documents that are generally responsive to the issues that you've framed in your search terms that they are aware of.

MR. OLESKE: Right. That's why we thought had they had an obligation to produce this without a second subpoena, your Honor.

THE COURT: That's what they are going to do. That's what they are going to do.

MR. OLESKE: The additional --

THE COURT: You don't need to propound any additional document requests because they know what their obligations are and they are going to comply with their obligations.

MR. OLESKE: The other document requests are not encompassed by their failure to produce on the first subpoena. They are independently, factually-based document requests for new documents. They need to figure out, just like they always had an obligation, the people who have these responsive

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documents for these new requests for subject matters that have grown out of our investigation for which we have demonstrated a factual basis and a connection between that factual basis and these new requests. For example --

THE COURT: Let me ask Mr. Wells two questions.

Mr. Wells, you agree that Exxon has an obligation to produce documents that come to Exxon's attention that are responsive to the original subpoena that was issued, correct?

MR. WELLS: If --

THE COURT: A continuing obligation?

MR. WELLS: I don't think we have -- it's just a definitional issue. I don't think after we have gone out and searched the files, talked to custodians, and produced the documents that every day of the week until this investigation is over --

THE COURT: Not every day of the week, but if a whole year goes by from the time that the original document request was propounded, and the files get filled up with a year's worth of stuff, I am not suggesting you have to mark to market every document that comes, that's generated on a daily or weekly basis, but when a whole year goes by, and there's a

plethora of documents that respond to an outstanding subpoena, you have an obligation to produce those documents.

MR. WELLS: If that's the issue, implicit in what you are saying is if this investigation goes say another three years, G-d forbid, that either every six months or every year we have got to spend it will be millions of dollars to go back and search 142 custodian files on an annual basis. I don't think that's how most subpoenas work. That's not how it's usually done.

We have produced up to the date. Now if I come across something, okay, I don't think I have to produce it, but whether it's civil litigation or an investigatory litigation, I don't think we have, in a big production like this, have to go back and redo it at a cost of millions of dollars every six months. I don't think that's --

THE COURT: What we are trying to accomplish today with no cooperation from either party is to move the investigation from the document phase, into the deposition phase, into the subsequent phase whether that's a trial, whether that's a consensual resolution, whether that's an injunction hearing. We are trying to get beyond, you know, being stuck in a time warp where you come back to court 17 times arguing about

documents.

I suggested 15 times that you meet and confer, and come to some reasonable resolutions, and at least six or seven times we have gotten these competing motions to compel or motions to quash.

MR. WELLS: In terms of cooperation, what we all agreed to, I thought on March 22, is that we would move to the next stage. When they asked to depose the key people with respect to proxy costs, they asked for June 27, I said he will be there. When they asked for the other dates, he will be there. We didn't move to quash the deposition subpoenas, because that's where everybody agreed where we were going.

So in terms of cooperation, they asked for these four people, and we gave them.

THE COURT: I don't think it's a huge concession on the part of ExxonMobil to produce four people who the Attorney General has requested to give deposition testimony after 16 months of document production.

Let me interrupt these proceedings. Everybody stay right where you are. I have one other matter that I need to deal with.

(A recess was taken.)

(After the recess the following

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occurred:)

THE COURT: Mr. Wells, I think you had the floor.

MR. WELLS: Thank you, your Honor.

I will try to be brief.

With respect to the issue of updating the document production aspect, what I want the court to consider is the fact that to update a request of this magnitude with 142 custodians where we are now going to have to go back and interview each custodian to see what additional hard copies he or she may have, we are going to have to go back, get their electronic documents, and load them, and search them, we will have to do a privilege review, we are talking about many months of works, and hundreds and hundreds of thousands of dollars of work. This is not a situation -- I think what Mr. Toal was referring to, if Paul, Weiss comes across a document, someone has a document that we know is responsive, and we have a continuing obligation to produce it, that's a different representation he made than going out and basically redoing this document production that we have been doing for 16 months to update for another year.

With that said, if that is what your Honor wants us to do, we will go out, and we will do it.

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THE COURT: That's what I want you to do.

If you are asking me whether I think that the Attorney General is perpetually investigating things that could and should be conclusively resolved through depositions and interrogatories in a much shorter period of time than the Attorney General has already spent investigating this issue, I would tell you the answer to that question is yes. That's beside the point. They have certain statutory powers that I can't --

MR. WELLS: What we will do with the depositions? That's the next implication.

So what's going to happen is they are going to start taking depositions, these four people. I assume they will keep taking depositions. It's going to take us a number of months to re-update, update this production. Then they are going to come back and say they want to depose all the people again because now they have new documents.

So it would seem if that's what they want, that we just go back to square one and put off the depositions because, otherwise, this thing will be a continuous loop (indicating).

THE COURT: I completely understand, which is why I have encouraged the parties to meet and

confer, and save each other a great deal of time and effort, but I don't think the scope of this investigation is so massive, and that issues that they are investigating are so arcane and require such sleuthing to get to the bottom of that, that ExxonMobil's entire business has to be audited, and every document in ExxonMobil's files has to be produced. I think the answers to their questions reside in the minds of a half dozen or more witnesses who they could depose, and are reflected in some manageable number of documents which is a tiny, tiny, tiny fraction of the documents that you have produced and are going to produce. That's very clear to me.

But, again, the Attorney General has certain statutory powers. They are exercising those powers. I can't interfere with their exercise of those powers except to the extent of preventing abuses. So if they want to spend another 18 months doing what they have done for the last 16 months, I am not in a position to stop them from doing that.

But I'm not ordering you to produce any documents from any custodians that aren't responsive to the search terms that they have already agreed to. I am ordering you to produce the additional witnesses to testify about the completion of the responses to their

document requests that you claim are fully complied with, and I am ordering you to update your document production in accordance with their requests.

MR. WELLS: May we have an understanding that the update will be as of today? We need a date from which we are doing this.

THE COURT: Surely it being June of 2017, and this investigation having been ongoing for 16 months, June of 2016 seems like a reasonable cutoff date to me. You can't keep moving the goal post.

MR. OLESKE: You said June of 2016.

THE COURT: I said June of 2016. You can't keep moving the goal posts.

MR. OLESKE: The subpoena was issued in November of 2015. Okay. The events described in the subpoena run all throughout 2016. We are asking for it to be updated to the date of production. If Mr. Wells wants it for the purposes of this order to be today, that's one thing. We don't understand the basis for them only producing between November 2015 and June of 2016.

THE COURT: What do you think has changed in the last six months?

MR. OLESKE: In our documents we show, in our papers we show Exxon has changed its practices and

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has modified its representations both in, throughout the course of 2016. That's why documents from 2016 are so vital for our investigation.

THE COURT: You want documents through the conclusion of 2016?

MR. OLESKE: We believe we are entitled to them up to the present day, your Honor.

THE COURT: Look, they cannot and no corporation can be required to produce on a daily or weekly or monthly basis every document that is generated by that corporation.

MR. OLESKE: Your Honor, let me, first, go to the purported unfairness of this.

Exxon did not actually finish its collection of management documents until two months ago. It just deliberately left out the documents from the intervening gap as a matter of policy.

Second, Exxon issued two new reports on this very subject presumably involving these same people with new and different language, with new and different internal policies in April of 2017. There is no legal basis to arbitrarily decide the Attorney General cannot investigate and ask for documents about those representations which link up with all of these other representations that Exxon has on the documents we have

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seen so far.

THE COURT: You have those documents.

MR. OLESKE: No, we don't have any documents from 2016 or '17.

THE COURT: You just told me that they changed their practices.

MR. OLESKE: First of all, yes, we know that, for example, in 2016 it appears from what we have seen from PricewaterhouseCoopers, because we did that first as your Honor directed us to do -- your Honor said that these impairment requests, our request number four in your prior order, was not responsive to our first subpoena, that we had to go to Pricewaterhouse and search, which we did, got the documents, we got Pricewaterhouse's documents showing them never doing any of this up to 2016, at least for the PWC documents, and then something changes in 2016, and they start doing something new on this same subject matter.

We don't have any of the documents from Exxon because your Honor told us it wasn't responsive to the first subpoena, and to go to PricewaterhouseCoopers first. We did both of those things. We developed this information inculpating the company. They have continued to make representations to the present day.

We are asking for not just this update, but,

for example, when it comes to impairment, when it comes to Exxon's documents about value, its long-lived assets that were previously ruled not part of the first subpoena, we connected their relevance to our factual basis, we have shown why the subject matter is tied to Exxon's representations and our potential fraud case.

Your Honor had previously precluded us from getting these documents --

THE COURT: I may be obtuse, but it seems to me that you will have these witnesses, and these witnesses have percipient knowledge of Exxon's practices.

MR. OLESKE: They don't have knowledge of that. That's part of the point of these documents. Some of these document requests are not for stuff covered by the first subpoena. They are not -- these witnesses -- this is the other bigger picture, if I can step back for a minute, your Honor.

The standard here for stopping us from any of these requests including the document requests is that it's not going to recover anything, any information that is relevant. In fact, the showing has to be that it's utterly irrelevant to our investigation. Now I understand, your Honor has referred multiple times, so has counsel, to depositions. These are, in fact, not

depositions. These are investigative hearings that the Attorney General has chosen these four witnesses to start with. We have other, many other employees from Exxon --

THE COURT: I am sure you are going to take dozens of --

MR. OLESKE: But we can't decide -- this is the point: Exxon is inviting you into something dangerous here. Exxon is inviting the court to decide how the Attorney General should stage its investigation, and to make judgment calls that we don't really need these documents now to decide what witnesses we will take down the road, we don't need those witnesses now to find out whether or not we heard what we need to hear from these witnesses. One of these document requests is for the documents relevant to the interrogatories that your Honor has already ruled we take.

THE COURT: Look, respectfully, there is a hard way to do things and there is an easy way to do things.

MR. OLESKE: We have been trying --

THE COURT: The easy way to do things, the easy way to do things is to examine witness X, ask witness X, who knows about this, that or the other

thing. Then examine the witnesses who were identified by witness X, and examine each of those witnesses who knows about this, that or the other thing. And if you had done that on day one you would be a thousand yards ahead of where you are today.

MR. OLESKE: Your Honor, with all due respect, that has not been our experience in this investigation. We have examined so far two witnesses in testimony, and, no, it has not been an efficient process, and our discretionary determination during the course of this investigation is that we needed these documents to figure out who to depose, and what questions to ask them, and to be able to evaluate, sorry, to take testimony from and to evaluate their testimony. We still need the documents for the same reason.

There is no legal basis, Exxon has not met any of the legal standards to deny us the factual basis to proceed or to show that these document requests are burdensome in any way. They have not met any of their required factual showings.

THE COURT: You don't think it's burdensome to search 130 custodians?

MR. OLESKE: As a matter of law, your Honor, even if Exxon had come into this with clean hands, as a

matter of law, no. For large companies that are spread all over the world, that have these kinds of operations, and when the allegations of potential fraud cover those operations, the courts have been unified, no, it is not a reason to deny such a request.

Your Honor, more importantly, the fact is, Exxon's hands have not been clean in this. Exxon refused to meet and confer with us about these requests before we came in here. We were happy to talk to Exxon about how these could be staged or prioritized, how they could be narrowed, how the interrogatories could help defer the need for some of the documents. We were happy. They refused, your Honor, and forced us here and now have to substantiate, contrary to the law, each of the bases for our document requests even though in our papers we demonstrated their connection to our factual basis, how they are narrow requests aiming at information that either was improperly withheld the recent documents from the original subpoena or requests that were not covered by the original subpoena that are vital for our continued investigation.

Again, with all respect, this is not a civil discovery dispute where the court has the wide discretion to gauge whether or not in what order it's most efficient for us to obtain discovery. We are

conducting an investigation in which the choice of whether to ask this question or ask for these documents or examine this witness is entrusted to the good faith of our office that we enjoy a presumption of, and that they have not, for all of the sideshow talk, have not overcome that presumption, again, the right way for this to have been done was for them to meet and confer with us, and talk about --

THE COURT: I agree that the parties should have met and conferred, but I believe that I have the inherent authority to assure that there is some degree of proportionality and rationality in the manner in which the investigation is being conducted.

MR. OLESKE: The issue then is, what is the dispute with the proportionality or connection of these specific requests in addition to the updated documents? I mean, we have heard none of that. Exxon has not even tried to give your Honor that.

THE COURT: Okay. I've indicated that you can propound any interrogatories that you want that are fair and non-burdensome and calculated to advance your investigation. I've ordered Exxon to update its production.

If you've identified potential documents that are relevant to your investigation here in open court,

and Exxon is on notice of the existence of such documents, they have an affirmative obligation to produce them.

MR. OLESKE: Not for documents, your Honor, that you have already ruled were not covered by the first subpoena. That's why we issued these updated and renewed document requests, was to obtain beyond the updated information that they owed us and your Honor already ordered. These other subject areas are areas that were not part of the original subpoena, are not part of some obligation for them to make continuing production. As much as unfortunately this may be distasteful to the court, the fact is, we have met our burden. We have a factual basis for these requests. They are connected and focused on that factual basis.

Exxon had a legal obligation to demonstrate how any one of these requests for new information, new documents that were not covered by the original subpoena, at least they argued so far, why any of those are burdensome in the way that meets the standards of the law or disconnected from our factual basis in the way that meets the standards of the law, and they have not done that.

THE COURT: But you can secure, you can secure the information by interrogatory that will

establish to your complete and total satisfaction in a simple response to interrogatory what would take you a man year to figure out by making them spend millions of dollars to produce, you know, another million documents.

MR. OLESKE: A couple of things.

First of all, that simply is not the case with these facts, these documents, and these witnesses. It shouldn't take -- it should not be a legal standard, any substantial interference with Exxon's business given its virtually unlimited resources which the court and counsel have previously noted.

We are only talking now -- presuming that our document request number two, which is -- this is our subpoena which was Exhibit T to Mr. Anderson's affirmation -- our document request number two is for the update. We have addressed that. Our document request number one is for documents relating to or substantiate the answers to our interrogatories. I assume that's not really -- I assume your Honor is okay with us asking for that.

THE COURT: Absolutely.

MR. OLESKE: All we are dealing with now are four document requests. One of them is for, I've identified in our interrogatory. One of the

interrogatories they refused to answer was for a list of people on a committee that handles their reserves. They refused in the meet and confer to give us the list of people.

THE COURT: They have to give you that.

MR. OLESKE: Number three, document request number three is just to add those people, these people that were on the reserve committees that they didn't previously identify, add those people to the prior list. That's number three. That's consistent with your Honor's --

THE COURT: That's consistent with what I have held.

MR. OLESKE: All we are now talking about is request four, five and six.

Number four are those impairment documents that your Honor previously ruled were not part of the subpoena, told us they are the PWC. We did, we found out there was inculpatory information, and now need to see Exxon's documents about it. We have drawn a clear line --

THE COURT: I don't understand. You have the documents from PWC.

MR. OLESKE: Pricewaterhouse's accounting documents about the process of taking impairments, but

we don't have Exxon's documents about that same process where they represented to investors that they have conducted this analysis, and apparently have now changed their mind in the last year, started doing it. We don't have that because your Honor denied our original attempt to enforce the first subpoena as including that subset of documents. We don't have those documents.

You told us to go to Pricewaterhouse first because we had a subpoena to them. We did. We have gone through that. We have found the inculpatory information there and now we need the connected evidence from Exxon. It's a straight line. There is no basis to restrict us from getting those documents from Exxon. That's number four.

Number five, this is amazing, this is the simplest request of all. Exxon refused this in the meet and confer. They can push a button. We asked in number five for documents they produced to the SEC. They have that on a compact disc. They have a disc sitting in their office that is document request them five. They refused to give it to us.

Document request number six, finally, is communications between Exxon and the banks. Again, Exxon's position's not responsive to the first

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subpoena. That's a very narrowly identified, easily identifiable set of documents which is Exxon's communications of the facts.

It appears that really our document requests one, two and three the court's already agreed we are entitled to, and four, five and six, I am trying to emphasize here, these are narrow requests, not covered by what your Honor was assuming would be covered by counsel's representations or Exxon's ongoing obligation. These are specifically targeted requests for new documents that were not covered, that we have connected to our factual basis, that Exxon has made no showing of burdensomeness, giving us a copy of the CD. That's what they are here opposing, refusing to meet and confer on.

Your Honor, it's clear that the court has seen this go on, seen us come back here, and your Honor said that the court's not had help from either party in moving the investigation forward. With all respect, we beg to differ. We have been trying very, very hard to move this investigation forward. We are moving forward with the testimony. We are moving forward with the questions. We need to move forward with the documents.

The fact that we are asking to fill in the gaps of our document collection with known relevant

evidence that should be easy get, that we had every legal entitlement to get, it's simply not on Exxon to come into court and say the Attorney General should not run their investigation this way, the Attorney General should wait another two or three months to ask witnesses, and then, oh, yes, of course, you need those documents. That's not from our perspective an efficient way to stage our investigation.

With due respect, it's not a civil discovery proceeding. This is a subpoena compliance proceeding. We demonstrated our legal authority to demand these documents, specifics ones, all of them that we ran through, and, frankly, we don't see how there is a legal basis as opposed to an understandable desire. We share that desire to conclude this investigation, but we have to be able to conclude the investigation within the ambit of our authority that's been properly exercised and exercised with good faith.

THE COURT: Mr. Wells.

MR. WELLS: Well, I thought he was going to try to be practical and propose some type of practical solution. I was wrong. It seems we are back to the very beginning because if you listen to him, he is suggesting that your Honor has now ordered us to engage in months and months of preparing spreadsheets for 12

years of projects, all the underlying documents, because that's what he said. He said, okay, number one is done, number two is done. He is checking boxes like the court ordered something. I told him, I am confused --

THE COURT: I have made it very clear. We are not going for 12 years at every project. I have made that very, very, very clear.

MR. WELLS: Thank you.

So at the moment he checked so many things off. I am not sure what is being ordered and what is not.

I started trying to be cooperative saying we would update. We understand it adds costs, it will take months, and what I hear them saying is no matter how much updating we do, there is always going to be more because we do an Energy Outlook every year. So I guess we are going to be updating for three years, four years. Look, there has got to be a stop date. I believe that there is supposed to be a stop date, and I don't have to go out and redo a multimillion dollar production, multiple times. I don't think that's the law. Listening to him it is clear, whatever we do, we are going to be back arguing about updating again because he does not want any end date.

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Maybe what we should do is have your Honor rule, we will go to the Appellate Division, see what the updating rules are, because I don't think they can do what they are saying they can do which is continually make us spend millions and millions of dollars, whether it's a monthly basis or every six months, ad infinitum into the future. I don't think that's rational. I don't think that's proportional.

I tried to be reasonable. Every time that you try to be reasonable, with all due respect with them, you get back because they -- look, this is not a normal investigation. It is a political witch hunt. That's what it is. They cannot clear Exxon. The Attorney General cannot be in a position of clearing the largest fossil fuel oil company in the world. They know it. I know it. So our documents show that we have not done anything wrong, anything.

This investigation started in November 2015. What they said was Exxon knew about secrete science, Exxon was keeping the secret science buried, and going out and being climate deniers. Then after months of looking at our scientific documents they said, oh, we don't want any scientific documents, stop giving us the science because our science shows that Exxon is totally innocent.

Then in August they changed the theory. They went to a stranded asset theory, and we read about it the newspaper. Every time they do something, they go right to the press. We read in the newspaper. Now we will do a stranded asset theory. That goes away.

Now we have a new theory. It's exactly opposite than the first theory. The new theory is, we say in our documents how serious climate change is, but internally we don't pay that much attention to it.

So they totally flip-flopped the theories. We are on the third theory now. There is nothing there. That's why that document that I wanted to go through with your Honor, I won't burden you with it, it's a PricewaterhouseCoopers internal document. It says with respect to proxy costs that that's what is used for projecting demand and ultimately the prices. It says with respect to GHG costs, how we apply them in specific locations, it says Exxon has one of the more conservative proxy costs of any oil company, and Exxon does this in the most conservative fashion.

All of that is in the document I wanted to walk you through. It puts the lie to all of his statements, that they are inculpatory, it's a sham. I mean, they just stand up here as officers of the court and say whatever comes to their minds even if they have

documents that contradict. At the end of the day, I am quite sure, they can't clear us. They can never clear us as innocent as we may be because it's politically unacceptable for them to do it. So we will end up continuing to produce, produce, produce.

THE COURT: Look, the best suggestion that I've heard is the one that you just made, Mr. Wells, which is you can take this to the Appellate Division. Take this to the Appellate Division because we are way beyond proportionality, and in my judgment no reasonable court could conclude that if you are searching for the search terms that they agreed to, and which were subsequently supplemented in the files of 134 people, and you have agreed to update that search through 2016, and they can propound interrogatories, and they can conduct the examination of the four people that they want to conduct to verify that you've fully complied through 2015 with all of their demands, that that isn't reasonable under all the circumstances. And if the Appellate Division decides that they can spend the next three years changing their theory, and imposing additional documentary burdens on you when they are free to depose anybody in their corporation that they choose to for the benefit of several million pages of documents that you have already produced and

the additional documents that you are going to produce, then so be it.

MR. OLESKE: Your Honor, --

THE COURT: That's the ruling of the court.

MR. OLESKE: -- may I respond to this issue of --

THE COURT: Look, you each have the obligation to zealously represent your clients. You have a different view of the world than Mr. Well's client has a view of the world. I'm just trying to call balls and strikes.

MR. OLESKE: Your Honor, I guess my -- part of my point is, I want to clarify first what exactly your Honor's ruling is because my understanding is that your Honor is saying they have to give us the documents that are responsive to our requests, one, two and three which --

THE COURT: No. If your request is that they have to give you information about every project that they have been involved in for the last 12 years, the answer is I absolutely, positively, definitely never intimated, suggested or ruled that that's what they have to do.

MR. OLESKE: I guess what we are a little tied up on is the distinction between our requests for

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information and our document requests because your Honor has made it clear that we have the right to ask interrogatories.

THE COURT: Yes, you can ask all the interrogatories you want, and they will respond to those interrogatories. If they fail to respond to those interrogatories reasonably you will be back here, and I am going to sanction them for failing to answer interrogatories to which they have no proper objection.

MR. OLESKE: Does that mean -- we are talking about the interrogatories we have. Does that mean the court is --

THE COURT: To the extent that they have interposed objections, we will have to rule on the objections.

MR. OLESKE: That's not how -- there is no process for objecting to subpoena requests, your Honor. The process is for them to move to quash on a specific basis that they have. We should have met and conferred about it, and they refused.

THE COURT: Yes, you should have met and conferred --

MR. OLESKE: They refused --

THE COURT OFFICER: Counsel.

THE COURT: If they don't want to meet and

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confer about it, then we will have to go interrogatory by interrogatory and ascertain whether they should be quashed or not.

MR. OLESKE: Your Honor, it's their burden to do that on their motion to quash, and they didn't, just like they didn't do any of the other things.

The document requests your Honor is talking about quashing here are document requests that are not covered by original subpoena, that we have met all of the legal requirements to show. It's just not that they are not utterly irrelevant, which is the actual standard. We have shown their incredible probative value, how they were not part of the first subpoena, how we need them for our investigation --

THE COURT: We are talking passed each other.

I've granted you the ability to propound any interrogatories you wish that conform to reasonable standards of what an interrogatory can properly request under these circumstances. I've granted you the ability to take the nine depositions that you are seeking, several of which relate to the appropriateness of their compliance with your prior document requests. I've granted you the ability to depose anybody in the Exxon mobile organization whom you need or want to

depose.

MR. OLESKE: One note on the testimony, your Honor. Your Honor mentioned nine witnesses. We should point out that it's been unresolved, but Exxon is resisting producing one of those witnesses for testimony who is a secundate -- I'm sorry -- an employee of Imperial Oil.

THE COURT: I have overruled that. I granted you the depositions of all of these people. All nine of these people, I have granted you the right to propound any interrogatories you wish to propound.

They have undertaken to update the document production pursuant to the original subpoena.

MR. OLESKE: Yes, your Honor.

THE COURT: I believe that that is all you can reasonably ask for, and all you're reasonably entitled to, and if the Appellate Division disagrees, the Appellate Division disagrees.

MR. OLESKE: Can I ask your Honor to consider one thing, to begin with, on the specific request?

Our request number five that your Honor was just talking about quashing is for them to give us a copy of the CD they already have that they produced to the SEC. That's our document request number five.

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There is no years of identifying anything. It's pushing a button, giving us a copy. We don't see what the basis for quashing that is given that it's pushing a button.

The other key request here though, what I guess the Attorney General is asking for guidance on, what the basis is for so we know what to do, is these documents that we have been hunting down for impairment purposes, that we, as the court directed because they were not part of the first appeal, went to the PWC, found this inculpatory stuff, and now are going to Exxon looking for those documents. What is the basis for us -- these witnesses will not answer those questions. This is a different subject matter. Why is it -- at what point are we able to get those documents because we feel like we have done what the court asked you us to do to get them. Now we are here, we have made our showing, and there is no legal basis to deny it, except that it's too much.

THE COURT: I think the information is going to be disclosed in response to a properly framed interrogatory.

MR. WELLS: Your Honor, we would like, we would like to be heard on these before you rule in terms of a Canadian employee. We would like to have

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argument on that.

THE COURT: All right.

MR. WELLS: We would like to have argument on Dan Bolia who is the internal Exxon lawyer with respect to the compliance because we think that raises attorney-client privilege issues different from the --

THE COURT: I am not overruling any privilege claims that you have which would be asserted in any deposition. I am of the view, which may be one that the AG disagrees with, that the deposition process in this case and interrogatory process in this case is a much more productive, efficient and cost-effective means of securing information that the Attorney General is legitimately entitled to pursue in its investigation. I'm sympathetic to the fact that the document demands are disproportionate to the years in terms of advancing the investigation, but I will hear you.

MR. WELLS: With respect to what was an offer of compromise, I offered to update through 2016.

THE COURT: Yes.

MR. WELLS: I understand they have rejected the offer because they want to be able to get through 2017 and continually --

THE COURT: I am not allowing that. I think

your offer is reasonable. I don't believe that it is your obligation to produce documents as they are generated on a rolling basis. I don't believe that at all.

MR. WELLS: It appears we are on that issue heading to the Appellate Division. I am trying to figure how it's couched. I am being somewhat --

THE COURT: Apparently you are heading to the Appellate Division, and I think I have been very clear that I don't believe that in an investigation that started in 2015 in which you produced millions of pages you have an obligation on a rolling basis to produce documents as they are generated internally in the conduct of ExxonMobil's business. I do believe that you have an obligation to make a continuing production of any relevant documents that they have previously inquired about or come to your attention, and you've voluntarily agreed to produce, to update your production in response to the original subpoena through the end of 2016.

MR. WELLS: Which offer they rejected.

THE COURT: Well, that's the order of the court. That's what will go up to the Appellate Division, the reasonableness of your offer which the court has found to be reasonable.

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MR. WELLS: On that -- I don't plan to go out spending money until we figure out what the new dates are.

THE COURT: Nothing is precluding the parties from meeting and conferring and coming to other and different things that have been discussed and ordered this morning.

MR. WELLS: Mr. Toal would like to address the question of the witness who lives in Canada, and also Dan Bolia.

MR. TOAL: Your Honor, starting with the issue of Dan Bolia, this is one of the four depositions the AG requested on the topic called discovery, about our discovery process. Now we think the witnesses who were already provided, Connie Feinstein, a 20 year veteran of Exxon's IT Department, was in charge of implementing holds, and Michele Hirshman, who is my partner, senior partner at Paul, Weiss, who had oversight over the entire discovery process, and signed the affidavit of completion, we think those are more than adequate. They have fully addressed the topics in our submission to the court.

The AG said they were not satisfied with our submission to the court. You found it very detailed. You agreed they should get an affidavit, they should

have the opportunity to test the assertions in the affidavit in the deposition. That's exactly what happened. So those witnesses were able to testify competently about the subjects of the respective affidavits or certifications.

THE COURT: If that's true, Mr. Toal, then these other witnesses are simply going to come in and say everything that the two prior witnesses have testified to is correct, and the AG will have wasted some of its time and a lot of your time.

MR. TOAL: That's part of the problem, your Honor.

THE COURT: I understand. That's what they are seeking. That's what I am granting.

MR. TOAL: So I understand the ruling generally.

Mr. Bolia, is in-house counsel for ExxonMobil. He has day-to-day responsibility for the management of this case. There is a special standard that applies when the opposing part is seeking to depose in-house counsel.

THE COURT: Agreed.

MR. TOAL: That's one that the AG did not even take on in this case. They have to show they have no other means to obtain the information they are

seeking. They have not shown that. They have to show the information sought is relevant and not privileged. They have not shown that. They have to show that the information is crucial to the preparation of its case. They have not shown any of those things.

THE COURT: Nobody is precluding an attorney from asserting attorney-client privilege. Normally that wouldn't attach to knowledge that the attorney has about how documents are being assembled, but we can deal with it on a question-by-question basis if necessary.

MR. TOAL: Thank you, your Honor.

If I could turn to the issue --

THE COURT: I think that the one thing that ExxonMobil wants to nail down here is that you have fully and completely complied with the subpoena. That's the one thing that I would think you would want to have nailed down here, and if it takes seven witnesses for the AG to be satisfied that you have fully complied with the subpoena, the AG is doing you a favor.

MR. TOAL: I don't think the AG has been doing us any favors. I don't think the AG will ever be satisfied. I think part of the game is to impose a burden here. I do think we established through the

affidavits and certifications that we have complied fully with our discovery obligations, and the types of questions that the AG points to that the witness identified somebody else have to do with details. There's been no showing that that information is in any way critical to their evaluation of our compliance with our obligations in the subpoena, and many of them have to do with the internal searches of the management committee custodians which is entirely irrelevant at this point because we redid the entire production of management committee custodians in precisely the way they say it shouldn't have been done.

I don't think these are good faith depositions that have a reasonable basis.

THE COURT: If you are asking me whether this is being handled in a proper, proportional manner, I would tell you I don't think so, but they are entitled to do this.

MR. TOAL: As to the witness from Imperial, one of the witnesses they have sought, one of the substantive witnesses, is a gentleman named Jason Iwanika. Mr. Iwanika is a resident of Canada. He is employed by Imperial Oil, not employed by ExxonMobil. Imperial is a Canadian company. It does business exclusively in Canada. Exxon owns about 69 percent of

its stock. The AG is of the view that ExxonMobil controls Imperial, and, therefore, controls Mr. Iwanika.

The standard for establishing corporate control requires that a subsidiary be operated as a mere department of a parent organization, and in that circumstance the companies have t to have merely identical ownership interest before one corporation is deemed to be a mere department of another. Imperial is not a department of ExxonMobil. It's a separate corporation. Thirty percent of its shares are owned widely on the market. Five of the seven directors have no connection with Exxon, no prior employment history. Exxon does not have the ability to hire, fire or discipline Imperial employees, which is important because that deprives us of any way of compelling Mr. Iwanika to appear.

We can't -- Exxon can't approve Imperial employee expenses and can't enter into agreements on behalf of Imperial. ExxonMobil's policy guidance takes effect at Imperial if and only if Imperial, Imperial's management approves those policies. So the AG has not carried its burden of demonstrating here that Imperial is a mere department of ExxonMobil.

The thing the AG does point to is that Exxon

produced certain documents from Mr. Iwanika. That was pursuant to a request we made for Imperial to make those documents available to us. They did it. At the time they did they said we are doing this as an accommodation both to Exxon and to the New York Attorney General, but this is not going to compel us to make any further productions or to do anything else. They made their determination when the Attorney General requested the presence of Mr. Iwanika in New York for examination. They weren't willing to do that, they weren't willing to make that accommodation, and Exxon does not have the ability to compel an employee of a separate organization to appear. So that's one I just don't think we have the ability to comply with.

MR. OLESKE: Your Honor, I appreciate your Honor's perspective that this has gone on for so long, and seems to the court to be thwarted. Obviously, that's obviously not our belief. We believe we have been as efficient as possible. The difficulty has been in dealing with representations about prior compliance or about matters before the court.

I have got -- counsel testified, like they did in their affidavit and they did in their brief, they have given you attorney attestations to facts. This is Imperial Oil's 10-K (indicating). "By virtue

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of majority stock ownership of the company by ExxonMobil, the company's considered to be an entity not controlled by Canadians." The company -- the company is a controlled company for purposes of the New York Stock Exchange and the Toronto Stock Exchange, and Exxon mentions that only two of the seven directors are employees of ExxonMobil. The president of Imperial Oil is not an employee of Imperial Oil. He is an employee of ExxonMobil Corporation. The president of Imperial's salary is paid by ExxonMobil Corporation.

That's kind of a big picture.

THE COURT: You don't have to say any more. I ordered these depositions to proceed.

MR. OLESKE: Thank you, your Honor.

But, your Honor, if I could, I just -- if we dealt with all of the depositions, if we have dealt with -- I presume, and I don't want to presume, I want to clarify with the court, we've propounded these interrogatories. We think they should have met and conferred with us in the first place. Our understanding is that you are ordering, as we asked, for compliance with these interrogatories, but, that, of course, we are going to talk to them about fulfilling those interrogatories. I am asking for guidance on that point.

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As to the document requests themselves, I guess I am trying to drill down on, it appears that we have got the court's okay for the ones that we previously discussed, and I'm just getting to these three other ones, the one that's a copy of the SEC documents. I am asking, I guess, is it the court's order that we are not entitled to get that? We are not going to get that information from witnesses. That's a disc of information that they have previously given to another regulator that they have copied.

And the documents, the impairment documents, we have gone through all the other routes the court sent us through to get what we need, that these witnesses are not about, and that we could theoretically could be waiting months and months to depose, to take testimony from witnesses about that in the blind without these documents.

So, again, I understand the court's perspective about the overall duration, millions of pages, although many of these pages are duplicative as you would expect. Putting that aside, these requests are not for everything. It's for copies of a compact disc and for a range of documents that PWC has already produced on, and we have been looking for now for seven months. They refused to give to us when we asked.

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Your Honor told us to go somewhere else to look, and we did. Your Honor said you can issue another subpoena, and we did.

So I guess the question is, can we ask the court to reconsider, in addition to the other ones, ordering the reproduction of that one disc or that set of documents given to the SEC, and the production of the documents that we have been trying to get, and that we followed the steps that the court said to follow to get. Now, I mean, based on what the court is saying about we have to stage our investigation a certain way, now we will have to figure out how to identify the witnesses at Exxon for the testimony you are talking about on this impairment issue that weren't covered by the first subpoena because we don't have Exxon's documents from -- we working from PWC's documents.

It doesn't make sense in terms of the very issues that your Honor has talked about. There is no basis to restrict us from getting responses to that request. While at first I understand it seemed, based on Exxon's presentation, we are asking for everything in the world. We have asked for very narrow categories, and we don't see a basis to quash them.

MR. TOAL: Your Honor, I find it difficult to understand how these sets of interrogatories and

these sets of document requests can be characterized as targeted or specific as they attest in their brief. I found that difficult to understand. They seek documents for 12 years concerning virtually every project Exxon has not only pursued, but even considered, every impairment decision, every reserve decision. It's difficult to imagine. If you were trying to come up with a broader subpoena you would be hard-pressed to beat this one.

THE COURT: I agree. I agree.

So what I haven't done is, I haven't ruled interrogatory by interrogatory to the scope of the interrogatories. I have ruled that the AG has broad powers to propound reasonable interrogatories that are relevant and not excessively burdensome. Clearly an interrogatory that asks for information about every project that Exxon has considered and every project that Exxon has pursued in a 12 year period is unreasonable on its face, and such an interrogatory would be quashed. If we are going to have further proceedings about the scope of interrogatories, if you can't work out a meet and confer process, we will have another meeting and I will rule interrogatory by interrogatory.

It's the court's view, right or wrong, you're

free to get guidance from a higher court, that by propounding interrogatories, taking depositions, and obtaining full compliance with the prior subpoena with the search terms that address all of the issues that you are concerned about, you are in a position to get any information that you need. If you disagree, you have recourse.

MR. OLESKE: Your Honor, I guess it's not so much that I disagree. Your Honor keeps pointing out that we have these search terms with the original subpoena. The point is, these requests are for documents not covered by the first subpoena. Your Honor already ruled that --

THE COURT: I just can't believe that you don't have major amounts of information about this subject based on the search terms that you utilized and 134 custodians.

MR. OLESKE: Two things: We are surprised too, although after --

THE COURT: That's why I am giving you leave to conduct the deposition of five people about the appropriateness of the compliance that Exxon has made in terms of your original subpoena.

MR. OLESKE: Right, your Honor.

THE COURT: So if you come back here and you

say we just deposed X, and X has indicated that Exxon wrongfully discarded all of the relevant documents, well, then we will have a different discussion than we are having today.

MR. OLESKE: I apologize, your Honor.

I guess what I am getting at is, you are right, we got that remedy, and we appreciate that, for potential spoliation or noncompliance with the original subpoena. The issue is, these are subject matters that are relevant to our investigation that we have connected and met our legal burden to connect with our investigation that are not covered by, would not be satisfied by the process your Honor is talking about, and one of them is copying the compact disc, and the other is giving us a production that we moved for a year ago, and your Honor gave us instructions on how to get these documents, and we have done that, and are not covered by the process your Honor was talking about is what the basis for us not being able to get those documents. There is -- Exxon has not made any showing that it's not legally required nor to resist these.

In terms of the interrogatories the fact is that it is Exxon that chose to represent to the investors and to the public that it does this for all of its decision. It applies this across its -- and

they represented further that they have a comprehensive computerized system to manage all of this information responding to requests that ask them to give us the data and information for something that we tell the public to do and you tell the public you keep track of vigorously cannot be on its face burdensome.

THE COURT: I agree with that.

As I have said, I have not ruled on any specific interrogatory and I am prepared to rule on interrogatories. Everything that you have just said about, you know, what you might ask in interrogatories or have asked in interrogatories sounds reasonable to me.

MR. OLESKE: The question then on the court's ruling on the interrogatories, is the court denying the motion to quash, granting our motion to compel, and, as we would expect, leaving it to us hopefully this time to meet and confer?

THE COURT: I am leaving it to you to meet and confer with the understanding that if you cannot come to a resolution on interrogatories, we will have and all day session, and I will go through the interrogatories with you one by one and rule on any interrogatory and any subpart. So I am not precluding you from asking by interrogatory anything you want to

ask, and I am not precluding them from moving to quash some, most or all of the interrogatories that you propound.

MR. OLESKE: Understood, your Honor.

THE COURT: I am just ruling that you have an absolute right to propose reasonable interrogatories.

MR. OLESKE: Understood, your Honor.

I guess my question for these document requests is, could I suggest to the court, respectfully, that your Honor at least not quash these requests for these documents?

THE COURT: I am going to leave it to the two of you to have a further meet and confer informed by what we have spent the last two and a half hours discussing. I think you have specific rulings by the court which either party is free to appeal, and general observations by the court which you hopefully take into consideration as you meet and confer.

MR. OLESKE: Your Honor, I don't know what's going to happen with the Appellate Division, but for those purposes, because I hear that at least that will happen, I just want to clarify what the court's rulings are. My understanding is that your Honor has granted our motion to compel on document request number two

which is about the updated documents, but not through the current date, through the end of 2016.

MR. TOAL: Your Honor, this is about the fifth time Mr. Oleske has tried to reframe your ruling.

THE COURT: My rulings are all reflected in the transcript of the proceedings, and it won't be difficult to read the transcript and distill the rulings. I understand that Mr. Oleske is persistent.

MR. OLESKE: I was asking for a question of clarity to determine which issues your Honor has actually made a ruling on as opposed to which issues have been deferred and not ripe for appeal.

THE COURT: What I have ruled is that you are entitled to take nine depositions. I have ruled that you are entitled to propound interrogatories. I have not ruled on any motion to quash any portion of any interrogatory that you ask. That's what you meet and confer on. And I have ruled that Mr. Wells' undertaking to update the production through the end of 2016 of your original subpoena with the search terms that have been used is a reasonable concession by Exxon and is being adopted by order of the court.

MR. OLESKE: Understood, your Honor.

We previously discussed -- that is a modification of our document request number two which

is the updating one that your Honor limited to 2016.

Our document question number three which, I believe, your Honor previously granted was for the updating of the production for the individuals to be listed in response to our interrogatory number nine which asks for a list of people who worked on reserve committees which they have not previously disclosed to us.

THE COURT: I think that's an interrogatory, and I think, maybe I am wrong, I thought Exxon agreed to do that.

MR. OLESKE: The interrogatory asked them to identify the people who served on these committees that they have not identified to us yet, and to produce their documents.

THE COURT: I think that those people need to be identified.

MR. OLESKE: Document request number three is for their responsive documents, for them to tell us who they are, and give us their responsive documents.

THE COURT: That's something you will meet and confer about.

MR. OLESKE: I guess the remaining ones, it's really not a large list --

THE COURT: We will not go through this, the

six items, for the eighth time. I just recited everything that I have ruled. I am not going to do it again.

MR. OLESKE: All I am looking for is whether or not requests four, five and six are being quashed.

THE COURT: They are not being ruled on today in the manner that you want them to be ruled on.

MR. OLESKE: I assume your Honor is directing us to meet and confer about four, five and six.

THE COURT: Yes.

MR. TOAL: We did ask in our motion for a protective order. We have now produced 2.8 million pages of documents. The AG is trying to get production of even more. Your Honor's ruling that we will update the production certainly will result in more documents.

This is highly sensitive corporate information. Each of our production letters expressly advises the New York Lieutenant Attorney General that this is confidential commercial information. It is to the benefit of ExxonMobil's competitors. We invoke the legal protections under New York law for that material to be treated confidentially, and we also reference in each production letter the agreement of the parties that produced documents not be publicly released and

disseminated or publicized.

THE COURT: They have agreed to what you are seeking?

MR. TOAL: They have not. When they filed their opposition brief they appended confidential business information of Exxon to their submission without conferring with us in advance, without giving us any notice, without giving us any opportunity to object and to seek the sealing of these documents which are sensitive.

THE COURT: Mr. Oleske, do you object to this? You agree to keep this information confidential?

MR. OLESKE: Your Honor, okay, we agreed not to disclose documents outside of our investigation to third parties unless we were required to for legal purposes. Exxon came in here and challenged the Attorney General's factual basis for its investigation in a public proceeding. We responded by attaching documents that are not trade secrets, that are simply evidence of Exxon's prospective fraud. Going forward, it is not appropriate to put a blanket seal --

THE COURT: I agree with that.

MR. OLESKE: -- on a case-by-case basis. If Exxon wants to say this particular document is a trade secret and so it should be sealed when it goes into

court, they can make that on a case-by-case basis. If going forward they don't trust us to know what is a trade secret -- now they have not actually moved to seal any of the stuff we did disclose on the basis that it was a trade secret because it wasn't.

The question is, if going forward they want protocol where they have the opportunity to seal documents because they are actually genuine trade secrets as opposed to embarrassing or evidence of fraud, it's going to be hard for us to oppose a mechanism for them to preemptive protect the trade secrets.

MR. TOAL: That's what we are asking for, a mechanism, a ground rule, so we can protect our confidential business information.

MR. OLESKE: There is a big difference between those two things.

THE COURT: I'm assuming, despite the gulf between the parties, that the attorneys are going to act in a professional manner, and if you, Mr. Oleske, have agreed that you are not going to disclose trade secrets of Exxon, I would expect that AG's Office to, at a minimum, advise counsel for ExxonMobil in advance if you are planning to file something that you have any reason to believe Exxon might consider to be a trade

secret.

MR. OLESKE: Understood. If we are talking about --

THE COURT: With respect to what has already been filed, the cat's out of the bag, Mr. Toal.

MR. TOAL: I agree. That's why -- there is nothing we can do. I think this concept is not limited to trade secrets. This is not just the formula for Coca-Cola. This is competitively sensitive information that can be used by a competitors.

THE COURT: I agree with that.

Your agreement with the New York AG seems to cover, you know, any commercially sensitive information and I thought I heard Mr. Oleske say that at a minimum before he files anything in court which is going to be released to the newspapers, before you come to court, that he give you the opportunity to object.

MR. TOAL: Thank you, your Honor, that's what we were looking for.

With respect to the depositions that are upcoming, we would ask --

THE COURT: The same rules apply.

MR. TOAL: Beyond --

THE COURT: The same rules apply. If they elicit testimony that represents trade secrets or

sensitive commercial information, I think Mr. Oleske agreed before he publishes that to the public or files a report, he will extend the courtesy to you to give you the opportunity to seek judicial intervention to prevent that from happening.

MR. TOAL: Thank you, your Honor.

With respect to the length of the depositions, we have depositions coming up. We would ask that depositions presumptively be a day long. We are having witnesses for the most part coming in from Texas. We would agree that the AG --

THE COURT: I don't think he will agree to that. I am not going to order that, but I think you can meet and confer and come to some understanding. Certainly I am not going to allow the AG to depose your witnesses for a week or two weeks.

Again, there is going to be proportionality, and I can't rule in advance that a particular witness is being examined for any excessively long period of time because some of your witnesses may have information on a multitude of subjects, and it may take more than a day to depose them about their knowledge of those subjects.

MR. WELLS: Your Honor, a housekeeping matter. I want to make sure for the record in case

either side goes to the Appellate Division that the slides that I handed to the court and the Pricewaterhouse documents I handed to the court were marked as Exxon exhibits for the purposes of the file.

THE COURT: They have been marked.

MR. OLESKE: And the 10-K from Imperial Oil Ltd. that I referenced, I would like to hand up and have marked, as well.

THE COURT: Okay. You can check with the court reporter before you leave to be sure that everything that you want in the record is in the record.

MS. SHETH: Your Honor, Manisha Sheth, Executive Deputy Attorney General, Economic Justice Division of the AG's Office.

Very briefly, Mr. Wells referred to this as a politically motivated witch hunt. I would like to correct the record on that.

THE COURT: The AG does not agree with that at all.

MS. SHETH: The AG does not agree with that at all. To the contrary, Exxon's behavior in this case has not been consistent with good faith compliance with the subpoena. What we have seen is a slow roll production of responsive documents. The documents that

were produced, many of them do not have anything to do with this investigation.

They withheld and continue to this day to withhold documents on the basis of a purported accountant-client privilege that your Honor as well as the First Department found is improper, and they have now appealed that to the Court of Appeals.

They have sued us in an unprecedented maneuver in a Texas federal court to enjoin our investigation.

One of their counsel has failed to disclose the existence of an e-mail of their CEO, the former CEO, and then joked about it at her deposition saying that she thought it was a test to see if the Attorney General would find those documents interesting, and whether the Attorney General was even reviewing the documents they produced. As a result, documents of the CEO were destroyed, and they have not put forth a witness who can discuss fully the destruction of these documents.

THE COURT: This is why you are taking these other five depositions.

If you're asking me to state on the record that Exxon has behaved in an exemplary manner, I decline to do so. If Exxon is asking me to state on

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the record that the New York AG has pursued in an exemplary manner, I decline to do that also.

MS. SHETH: Thank you, your Honor. I do want to put that on the record.

MR. WELLS: Can we stipulate that Exxon totally disagrees with all of her comments?

THE COURT: All right.

Thank you very much. I always enjoy seeing you. Have a nice day and nice weekend.

(Received and marked Attorney General Exhibit Number 1 marked in evidence)

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C E R T I F I C A T E

I, Terry-Ann Volberg, C.S.R., an official court reporter of the State of New York, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes.

Terry-Ann Volberg, CSR, CRR
Official Court Reporter.

SO ORDERED

BARRY R. OSTRAGER, J.S.C.

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